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**1 - Time for April 13 smelter smokestack razing set, KSAT, 4/3/13**

<http://www.ksat.com/news/Time-for-April-13-smelter-smokestack-razing-set/-/478452/19571528/-/ec9kkqz/-/index.html>

Summary: Not only are the days numbered for two towering smokestacks at the long closed Asarco copper smelter in El Paso, now the hours are numbered as well

**2 - No evacuation for Asarco smokestacks' fall: Mexican officials will close streets for demolition, ElPasoTimes, 4/4/13**

[http://www.elpasotimes.com/ci\\_22944231/mexican-officials-will-close-streets-demolition](http://www.elpasotimes.com/ci_22944231/mexican-officials-will-close-streets-demolition)

Summary: Mexican authorities have decided not to evacuate people from two Juárez neighborhoods that sit directly across the Rio Grande from Asarco on the day the smokestacks will be demolished.

**3 - Natural gas found near Bayou Corne sinkhole, Fox8Live, 4/3/13**

<http://www.fox8live.com/story/21874927/natural-gas-found-near-bayou-corne-sinkhole>

Summary: Bayou Corne, La. - Natural gas has been found under the slabs of two homes near a Bayou Corne sinkhole. Assumption Parish officials say contractors found gas under slabs on Sauce Piquante Lane. That's north of Highway 70.

**4 - Protest Group Comes to Mayflower Following Oil Spill, Fox16, 4/3/13**

[http://www.fox16.com/news/local/story/Protest-Group-Comes-to-Mayflower-Following-Oil/1\\_AoMit2c0e-O4hlrwyGPw.csp?rss=315](http://www.fox16.com/news/local/story/Protest-Group-Comes-to-Mayflower-Following-Oil/1_AoMit2c0e-O4hlrwyGPw.csp?rss=315)

Summary: Mayflower, AR - Environmental activists from across the country are converging upon Arkansas, arguing the Mayflower spill proves that the controversial Keystone Pipeline proposal should not move forward.

**5 - Federal judge dismisses claims against blowout preventer manufacturer in BP oil spill trial, NOLA, 4/3/13**

[http://www.nola.com/news/gulf-oil-spill/index.ssf/2013/04/federal\\_judge\\_dismisses\\_claims.html](http://www.nola.com/news/gulf-oil-spill/index.ssf/2013/04/federal_judge_dismisses_claims.html)

Summary: The federal judge overseeing the BP Gulf of Mexico oil spill trial dismissed all remaining claims Wednesday against the Houston-based manufacturer of the blowout preventer, which was supposed to shut down BP's Macondo well in an emergency.

**6 - OG&E could face lawsuit, fines over coal plant work, Oklahoman, 4/2/13**

<http://newsok.com/oklahoma-gas-and-electric-co-could-face-lawsuit-fines-over-repairs-at-two-oklahoma-coal-plants/article/3779297>

Summary: The U.S. Department of Justice sent a letter in March to OG&E's attorneys offering to have settlement discussions over a notice of violation the Environmental Protection Agency issued to the utility in April 2011.

**7 - Wednesday odor of burning tires, oil in New Orleans area may have come from ExxonMobil Chalmette Refinery, NOLA, 4/4/13**

[http://www.nola.com/environment/index.ssf/2013/04/wednesday\\_odor\\_of\\_burning\\_tire.html#incart\\_river](http://www.nola.com/environment/index.ssf/2013/04/wednesday_odor_of_burning_tire.html#incart_river)

Summary: An odor identified as burning tires or oil that wafted over the New Orleans area may have been caused by a spill of wastewater at the ExxonMobil Chalmette Refinery, according to a report filed with the Coast Guard's National Response Center and a second report issued by the National Ocean Service.

**8 - EPA Weighs Options For Giving SAB's IRIS Panel Early Review Role, Inside EPA, 4/4/13**

<http://insideepa.com/201304032429845/EPA-Daily-News/Daily-News/epa-weighs-options-for-giving-sabs-iris-panel-early-review-role/menu-id-95.html>

summary: EPA officials are reconsidering the role that its new Science Advisory Board (SAB) committee will play in reviewing influential Integrated Risk Information System (IRIS) chemical assessments, after many of the committee's members raised concerns about its limited role but declined to formally call on the agency to expand it.

**9 - Legal challenges on all sides for EPA rules on backup generators, Greenwire, 4/4/13**

**<http://www.eenews.net/Greenwire/2013/04/03/1>**

**Summary:** The state of Delaware, environmentalists and power producers lined up this week to file legal challenges to U.S. EPA rules governing the use of backup generators at power plants and other industrial facilities.

**10 - Enviros prepare ads highlighting Ark. spill in anti-pipeline push, Greenwire, 4/4/13**

**<http://www.eenews.net/Greenwire/2013/04/03/3>**

**Summary:** Environmental groups are preparing to launch an advertising and grass-roots lobbying campaign highlighting a recent oil spill in Arkansas to argue that the Obama administration should reject the Keystone XL pipeline, a former administration adviser working on the effort said today.

**11 - No EPA permit needed for contaminants seeping from utility poles -- appeals court, Greenwire, 4/4/13**

**<http://www.eenews.net/Greenwire/2013/04/04/17>**

**Summary:** Federal judges ruled yesterday that wood preservatives seeping from utility poles into the San Francisco Bay don't require U.S. EPA permits and don't qualify as solid waste.

**12 - Sequestration plan includes extra-long Memorial Day holiday, Greenwire, 4/4/13**

**<http://www.eenews.net/Greenwire/2013/04/04/27>**

**Summary:** U.S. EPA will close its doors for the Memorial Day holiday on May 24, forcing employees to take a four-day weekend that includes a day of unpaid leave in a sequestration cost-cutting move.

**13 - Range Resources countersuit over water spat could go back to trial court, EENEWS, 4/4/13**

**<http://www.eenews.net/energywire/2013/04/04/9>**

**Summary:** A Texas appeals court recommended a rehearing for a Range Resources Corp. countersuit against landowners who accused the company of contaminating their water.



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## Time for April 13 smelter smokestack razing set

Time set for April 13 demolition of iconic smokestacks in El Paso at former copper smelter

**Author:**

Published On: Apr 03 2013 10:15:41 AM CDT

EL PASO, Texas (AP) — Not only are the days numbered for two towering smokestacks at the long closed Asarco copper smelter in El Paso, now the hours are numbered as well.

Officials have announced crews will bring the 825-foot and 612-foot smokestacks down with explosives between 6:30 a.m. and 7 a.m. Mountain time on Saturday, April 13. Interstate 10 and other streets adjoining the stacks will be closed during the demolition, and some homes will be evacuated in a neighborhood directly across the Rio Grande in Ciudad Juarez, Mexico.

The smelter closed in 1999, and efforts to preserve the iconic stacks failed.

Preservation efforts failed. The demolition is part of a \$52 million remediation toward site redevelopment.

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## **No evacuation for Asarco smokestacks' fall: Mexican officials will close streets for demolition**

*By Lorena Figueroa \ El Paso Times El Paso Times*

*Posted:*

ElpasoTimes.com

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Mexican authorities have decided not to evacuate people from two Juárez neighborhoods that sit directly across the Rio Grande from Asarco on the day the smokestacks will be demolished.

Instead, Juárez officials will close some streets and establish a surveillance operation in the area on April 13, the day the stacks come down.

The decision was made Wednesday and came after local, state and federal Mexican authorities met in El Paso with representatives of the Asarco Site Custodial Trust and the Brandenburg Industrial Service Co., which will be doing the demolition. The group also toured the site where the 825-foot and 612-foot stacks currently stand.

In the meeting, Mexican and U.S. authorities addressed the final details and risks associated with tearing down the stacks.

"After reviewing all of the documents we were given (by Asarco officials) and the security measures that will be put in place on the U.S. side the day of the demolition, we concluded that it is not necessary to do an evacuation," Director of Civil Protection Efrén Matamoros said.

As of last week, the agency planned to evacuate about 2,600 people living in the Ladrillera de Juárez and Franja Sara Lugo neighborhoods for a few hours starting at 6 a.m. April 13.

Matamoros said that representatives from Mexico's Environmental and Natural Resources Agency, or Semarnat, and the Environmental Protection Office, or Profepa, were also at the meeting and reviewed the environmental impact tests.

"They confirmed that the contamination levels are going to be safe in the impact area," he added.

Profepa officials in Juárez referred questions to Semarnat. Semarnat officials could not be reached for comment.

Matamoros said his agency reviewed on site the security measures around Asarco's stacks, including a barrier and a misting system to capture the dust.

He said a contingency plan will be implemented in Juárez the morning of the demolition. It will include the presence of up to five ambulances and two fire trucks.

Also, as a security measure, local, state and federal police will close the streets in the Ladrillera de Juárez and Franja Sara Lugo neighborhoods that are within 175 feet from the

international border. The streets will be closed three hours before the smokestacks' demolition, he said.

He added that residents who live closest to the border will be advised of the contingency plan beginning today. They will be allowed to leave their homes, but they won't be able to come back until after the demolition.

Asarco trust officials have scheduled the demolition for between 6:30 and 7 a.m.

The trust has asked Juárez officials to temporarily close the road that runs parallel to Paisano Drive. That road leads to a brick factory.

Matamoros confirmed that the street will be closed.

He also said there will be an area south of the Ladrillera de Juárez neighborhood where neighbors and visitors can safely watch the demolition of the stacks.

Lorena Figueroa may be reached at [lfigueroa@elpasotimes.com](mailto:lfigueroa@elpasotimes.com); 546-6129.



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## Natural gas found near Bayou Corne sinkhole

Updated: Apr 03, 2013 6:30 PM CDT

Written by: FOX8Live.com Staff

Bayou Corne, La. - Natural gas has been found under the slabs of two homes near a Bayou Corne sinkhole.

Assumption Parish officials say contractors found gas under slabs on Sauce Piquante Lane. That's north of Highway 70.

Tests should show in the next few days if the gas is related to the area's sinkhole. The gas could be naturally-occurring swamp gas.

The gas is not leaking into homes. For more information on the Bayou Corne situation, go online to <http://assumptionla.wordpress.com>.



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# Protest Group Comes to Mayflower Following Oil Spill

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Updated: 4/03 11:31 pm Published: 4/03 11:02 pm

Mayflower, AR - Environmental activists from across the country are converging upon Arkansas, arguing the Mayflower spill proves that the controversial Keystone Pipeline proposal should not move forward.

The group, called "Tar Sands Blockade", is from Texas, where much of the Keystone project would be built, saying the type of oil involved is too dirty and too risky to move.

"This is going to be an ongoing cleanup process and it's gonna be an ongoing grieving process and dealing with the losses and the health problems and all the terrible damage caused by Exxon's negligence," explained Eric Moll with the group.

They say "Tar Sands Blockade" wants to spread their message against future pipelines so they say they can keep spills like this from happening anywhere else.

The group has well-documented their trip so far. To have a look

[click here](#) for their website.

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Everything New Orleans

## Federal judge dismisses claims against blowout preventer manufacturer in BP oil spill trial



By [Richard Thompson, NOLA.com | The Times-Picayune](#)

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on April 03, 2013 at 2:05 PM, updated April 03, 2013 at 7:22 PM

The federal judge overseeing the [BP Gulf of Mexico oil spill trial](#) dismissed all remaining claims Wednesday against the Houston-based manufacturer of the blowout preventer, which was supposed to shut down BP's Macondo well in an emergency.

U.S. District Court Judge Carl Barbier, who is trying the case without a jury, granted a motion freeing Cameron International as a defendant in the first phase of the trial. The blowout preventer, located on the wellhead on the Gulf floor, was intended to use a series of rams, valves and sheering blades to close off the well once oil and gas from deep below the seabed started gushing out.

Barbier [had previously ruled out punitive damages against Cameron](#), saying March 20 that he had "not heard or seen any evidence that would support in any way a finding of gross negligence or willful misconduct" on behalf of the company.

On Wednesday, Barbier took it one step further. "Frankly I've heard no evidence during this trial or seen no evidence to support a finding of negligence against Cameron that could have in any way caused or contributed to the accident, to the casualty."

The claims against Cameron were "based on maritime product liability and negligence," Barbier said.

"With respect to the product liability claim, the admiralty law essentially adopts the restatement and under the restatement there must be, although negligence is not necessarily required, there is a requirement that there be a showing or evidence of a defect in the product, either in its construction or design or manufacture," the judge said after the court returned from lunch recess.

The extent of the evidence showing issues with "the operation or non-operation" of Cameron's blowout preventer, Barbier said, relating to the fatal disaster points "not at Cameron itself but rather at Cameron's customers in this case."

BP operated the Macondo well, while [Transocean owned and manned the Deepwater Horizon drilling rig](#). The rig caught fire and exploded April 20, 2010, killing 11 workers and leading to one of the largest oil spills in the nation's history.

"These are obviously sophisticated customers, they specified and selected the type of blowout preventer, the components, the arrangement of the components and made decisions," Barbier said. "Whether those decisions, in the end were right or wrong or proper or not, they made decisions as to how this blowout preventer would be configured and arranged and its capacity and so forth. And also made decisions as to whether and when to upgrade the blowout preventer."

Cameron lawyer David Beck didn't waste any time. "Your Honor, thank you very much," Beck told the judge. "May I go home?"

"I guess we have a couple more seats available, huh?" Barbier said in granting his motion.

Barbier had previously granted a motion, on March 20, dismissing all claims against M-I LLC, the Schlumberger subsidiary that supplied the drilling fluids to BP.

For BP and its partners in the ill-fated Macondo oil well -- including Halliburton provided cement recommendations to BP during its drilling operations at the time of the 2010 accident -- the first phase of the complex court case will assign liability for the deadly catastrophe and focus on whether the actions of the companies involved leading up to the accident constitute gross negligence or willful misconduct.

Testimony on Wednesday continued for a second day from Glen Stevick, a mechanical engineer called as an expert witness by Halliburton to discuss the rig's blowout preventer.

Halliburton also called its last witness, Frederick "Gene" Beck, a drilling and wells manager for Statoil, the Norwegian oil and natural gas giant.

During cross-examination, plaintiffs' lawyer Jim Roy walked Beck through a series of 10 steps BP took on the Macondo drilling operation, including its call to use six centralizers in the well instead of the 21 recommended by Halliburton.

"In each event, the decision that was made did result in a time and cost savings," Beck testified.

If Barbier rules that BP deliberately ignored safety protocols, it would result in a four-fold increase in the billions of dollars of Clean Water Act penalties expected to be levied.

When Beck is finished testifying, the sprawling civil trial, now in its sixth week, will recess until Monday, when BP will begin its case. BP lawyer Robert "Mike" Brock told the federal court that he estimated the British oil giant will finish presenting its case somewhere between April 18 to 23.

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# **Oklahoma Gas and Electric Co could face lawsuit, fines over repairs at two Oklahoma coal plants**

**The U.S. Department of Justice has sent a letter to Oklahoma Gas and Electric Co. saying it could face a lawsuit over allegations it didn't take out the necessary permits for repairs to its Sooner and Muskogee plants from 1993 to 2006.**

Oklahoma Gas and Electric Co. is facing a possible federal lawsuit and civil fines over a series of upgrades to two Oklahoma coal plants in the past 20 years.

The U.S. Department of Justice sent a letter in March to OG&E's attorneys offering to have settlement discussions over a notice of violation the Environmental Protection Agency issued to the utility in April 2011.

The EPA notice alleges OG&E didn't take out the proper permits and failed to monitor emissions for 13 upgrades and repairs to coal units at its Sooner and Muskogee power plants from 1993 to 2006.

In its March 7 letter, the Justice Department said it was prepared to file a lawsuit in the case.

"On October 23 of last year, I invited you and your client to discuss a settlement framework to resolve these claims," wrote Elias Quinn, a trial attorney with the department's environmental enforcement section. "Other than a note which promised further response 'in due course,' I have not heard from you in the four months since that invitation."

OG&E spokesman Brian Alford said the utility has met with officials since the letter.

Alford said OG&E believes the changes it made to the coal plants fall outside the EPA's New Source Review program. The allegations concern three units at the Muskogee plant and two units at the Sooner plant near Red Rock.

New Source Review is a preconstruction permitting program that ensures air quality isn't worsened by new and modified power plants, factories or industrial boilers. Permits granted under the program specify the type of construction, emissions limits and how the plant can operate.

“Our emissions remain well within the established thresholds,” Alford said of the units at the Muskogee and Sooner generating plants. “Our view is that the work performed was typical repair and maintenance on existing facilities.”

In its 2011 notice of violation, the EPA alleges OG&E made “major modifications” to the plants and had significant net increases in emissions as a result of the projects.

Wyn Hornbuckle, a spokesman with the Justice Department in Washington, said the department doesn’t comment on ongoing enforcement matters.

Whitney Pearson, with the Sierra Club’s Beyond Coal campaign in Oklahoma, said enforcement actions under the Clean Air Act’s New Source Review address pollutants such as sulfur dioxide, nitrogen oxide and particulate matter, or soot, which can cause serious health problems.

“The Clean Air Act is one of the most fundamental and important public laws in U.S. history, and OG&E should stop avoiding compliance and instead reduce toxic pollution from their coal-fired power plants,” Pearson said. “While this specific action has moved slowly, OG&E will not be able to shirk this responsibility for much longer.”

The case started in July 2008 when OG&E received an EPA request for information regarding Clean Air Act compliance at its Sooner and Muskogee plants. The request was part of the EPA’s decades-long effort to determine if utilities had installed “best-available control technology” for emissions as upgrades and major repairs were made at power plants.

In regulatory filings, OG&E said EPA could require it to install additional pollution control equipment and “pay fines and significant penalties” as a result of the allegations in EPA’s notice of violation.



Everything New Orleans

## Wednesday odor of burning tires, oil in New Orleans area may have come from ExxonMobil Chalmette Refinery



By [Mark Schleifstein, NOLA.com | The Times-Picayune](#)

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on April 04, 2013 at 9:48 AM, updated April 04, 2013 at 10:19 AM

An odor identified as burning tires or oil that wafted over the New Orleans area may have been caused by a spill of wastewater at the ExxonMobil Chalmette Refinery, according to a report filed with the Coast Guard's National Response Center and a second report issued by the National Ocean Service.

The report to the response center by the refinery says that an unknown amount of waste water leaked onto the ground from the "Number 1 flare drum" at the refinery at 7:08 a.m. It did not say what chemicals, if any, were in the wastewater.

The National Ocean Service's Incident News web site reported that the Coast Guard contacted National Oceanic and Atmospheric Administration officials on Wednesday after residents reported "funny chemical smells" throughout the greater New Orleans area.

"(Coast Guard and Louisiana Department of Environmental Quality) personnel began interviewing citizens early this AM and searched for a source of chemical release," the report said. "Active air monitoring led personnel to investigate of a facility in Chalmette (6 miles ESE of French Quarter, New Orleans, LA). The facility reported a leaking flare drum with hydrogen sulfide and benzene being released. USCG is request air plume modeling to determine if the two cases are linked."

On Wednesday, Anna Hyrbyk, a spokesman for the Louisiana Bucket Brigade, said she had been told by Coast Guard officials that Chalmette Refining had reported the release of 100 pounds of hydrogen sulfide and 10 pounds of benzene, a a cancer-causing chemical. The company had also reported that its own monitoring equipment had measured 160 parts per million of hydrogen sulfide and 2 parts per million of benzene in the air at the refinery's fenceline.

The Coast Guard had invited the Bucket Brigade to participate in its incident command center, director Anne Rolfes said Thursday, in part because the environmental group has an online mapping center that had received several dozen reports of the odors.

On Wednesday evening, a spokeswoman for ExxonMobil said the "joint incident command" set up by the Coast Guard to investigate the odor reports would be issuing a news release, and refused to comment on the accuracy of the Bucket Brigade numbers.

Coast Guard officials did not return several telephone calls Wednesday night requesting confirmation of that information. On Thursday morning, a spokesman said it would be releasing information about the incident later in the day.

A recorded message at Chalmette Refinery says it has been shut down since February for a "turnaround" construction project that is employing 500 workers, and that flaring was likely to occur at the site. A flare was operating on the site on Wednesday.

The Chalmette refinery is operating under a federal consent decree that requires it to comply with the Clean Air Act and reduce emissions, especially flaring events.

On March 15, the company filed a report of its compliance with the decree during the last six months of 2012 that noted 10 incidents in which it violated the pollution limits, including an outage caused by Hurricane Isaac.

The incidents included the release of 1.93 tons of sulphur dioxide on July 2; the release of 1,076 pounds of sulphur dioxide on July 29; the release of 33.73 tons of sulphur dioxide between Aug. 27 and Sept. 3 during Hurricane Isaac; 1.85 tons of sulphur dioxide on Sept. 10; 1,063 pounds of hydrogen sulfide on Oct. 26; and 2.22 tons of hydrogen sulfide on Oct. 30 and 31. Most of the releases were prompted by the failure of pressure safety valves or other pieces of equipment. One was caused by a loss of electrical power. The releases during Isaac were the result of the shutdown of the refinery in advance of the storm, and then its restart after the hurricane cleared the area

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Daily News

## EPA Weighs Options For Giving SAB's IRIS Panel Early Review Role

Posted: April 3, 2013

EPA officials are reconsidering the role that its new Science Advisory Board (SAB) committee will play in reviewing influential Integrated Risk Information System (IRIS) chemical assessments, after many of the committee's members raised concerns about its limited role but declined to formally call on the agency to expand it.

IRIS staff "will have to go back and think about" the committee's interest in more and earlier involvement in EPA's development of IRIS assessments, an agency source said after the committee's inaugural meeting ended April 3. "We'll be thinking about all the things that were said today, ways of involving the committee earlier and figuring out how to respond to that," the source added.

And Ken Olden, director of EPA's National Center for Environmental Assessment (NCEA), which oversees IRIS, said in an interview with *Inside EPA* that he envisions a broader role for the committee, including possibly reviewing how EPA implements advice from the National Academy of Sciences (NAS) for improving the program or how the agency should deal with those chemicals where IRIS exposure limits are close to background levels.

The SAB's Chemical Assessment Advisory Committee's (CAAC) was one of a series of initiatives to improve the IRIS program that former EPA research chief Paul Anastas introduced in the wake of a 2011 NAS report criticizing EPA's draft assessment of formaldehyde, and raising concerns about the IRIS program more generally.

The formaldehyde report prompted Congress to require EPA to contract with the NAS, which is currently assessing the program as well as a pending EPA assessment of arsenic.

At the CAAC's first meeting April 2-3 in Washington, DC, many panelists raised concerns that the role EPA officials outlined for the committee -- peer reviewing draft assessments after they are completed -- is too limited and called for an early review role.

For example, Sean Hays, an independent risk assessment consultant and CAAC member, raised the concern that the committee would function merely as a "rubber stamp" for nearly complete IRIS assessments. "This committee is getting engaged very late in this process . . . I'm concerned that we're not going to have much input," he said during the April 2 meeting.

He added that an additional CAAC review earlier in the process would allow the committee to review important questions such as how EPA is interpreting the studies that form the basis of an assessment.

But such calls drew concerns from EPA officials and environmentalists, who said that allowing the panel to review EPA efforts early in the assessment process will taint their ultimate peer reviews and delay completion of assessments.

"If you're involved with the development of the document it will be hard for you to review it," Lynn Flowers, NCEA's deputy director, told the committee April 2.

During public comments April 3, Richard Denison, senior scientist with the Environmental Defense Fund, argued that allowing CAAC more than one opportunity to review IRIS assessments as they are underway will further delay what is already a multi-year process.

In discussions at the end of the meeting, panelists recognized these concerns and spoke of seeking a way to engage in the IRIS process earlier without delaying the process. "We've been dancing around the issue of should we be brought in earlier," said panelist James Klaunig, an environmental health professor at Indiana University. "I initially thought we should be ... but in thinking



more, I think maybe a compromise [would be if] EPA might be able to suggest when we could [engage] so we wouldn't influence [the draft].”

Other committee members agreed with Klaunig, including Leslie Stayner, an epidemiology professor at the University of Illinois. “I did voice support for early review, in the hope that it might avoid the formaldehyde situation,” Stayner said. “We do also have to be careful this doesn't become another hoop the agency has to jump through.”

Committee members decided that rather than vote on a statement directed at EPA regarding their desire to weigh into assessments before they are drafted, they would simply allow the meeting's minutes to reflect their concerns about their role and when they should review IRIS assessments and their components.

## Chemical Reviews

Some committee members and several industry representatives also raised concerns about CAAC's structure, and how it will operate to review chemicals. “Because of the way this panel is going to work, the whole panel won't see every [assessment] . . . I'm afraid you'll get a hodgepodge . . . a hit or miss kind of review,” Hays said.

Several industry representatives, encouraged CAAC members to get involved earlier, and to include the entire committee in reviews. Robert Fensterheim, president of RegNet Environmental Services consulting firm, urged the full CAAC to review the first IRIS assessments “to lay the foundation for subsequent reviews.”

SAB staff intend that 12-15 CAAC members will review each IRIS assessment, augmented by a handful of chemical specific experts who are not CAAC members. Suhair Shallal, the designated federal official for CAAC, explained the idea of having a broad committee that could be divided up to perform IRIS peer reviews is in part intended to increase continuity of IRIS reviews while also increasing the number of assessments that it is possible for the committee to review.

“When we first set out to create this committee, I advocated for a large group we could divide up,” Shallal said. “I do not expect [you to do] 10 reviews a year . . . that is not possible. . . . Each of you should sit on average on three committees” per year.

Shallal's words surprised committee members, some of whom noted that IRIS has rarely released more than a handful of assessments each year. “Do you really believe [there will be] 12-15 IRIS assessments a year [to review]?” asked Alan Stern, CAAC member and risk assessment section chief with New Jersey Department of Environmental Protection's Office of Science. “That would be a revolution. Given the history and the extra layers of review, is that possible?”

But Olden assured the panel that it is, and reiterated his goal of producing 12-15 assessments per year. “We're well beyond halfway with that,” he said.

EPA officials indicated that CAAC will peer review three draft assessments by the end of the calendar year, including assessments of ammonia and trimethylbenzenes, which the agency released for public comment last summer, as well as the assessment of benzo-a-pyrene, which has yet to be released publicly. -- *Dave Reynolds & Maria Hegstad*

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## THE LEADER IN ENERGY & ENVIRONMENTAL POLICY NEWS

### 1. AIR POLLUTION:

#### Legal challenges on all sides for EPA rules on backup generators

Jason Plautz, E&E reporter

Published: Wednesday, April 3, 2013

The state of Delaware, environmentalists and power producers lined up this week to file legal challenges to U.S. EPA rules governing the use of backup generators at power plants and other industrial facilities.

Four separate petitions for review were filed at the U.S. Court of Appeals for the District of Columbia Circuit against EPA standards for generators with reciprocating internal combustion engines (RICE). The rule finalized in January would allow backup generators to run without emission controls for 100 hours, up from the previous cap of 15 hours.

Three petitions came from the Delaware Department of Natural Resources and Environmental Control, the Conservation Law Fund, and FirstEnergy Solutions Corp. and two other power companies. Another from the National Rural Electric Cooperative Association likely challenges a specific provision of the rule concerning use of the backup generators during peak usage.

The petitions are likely to be combined.

Separately, the Conservation Law Fund and a number of environmental groups asked EPA to reconsider the rule in a [filing](#) directly to the agency.

EPA said it is reviewing the petitions.

EPA in January set the final amendments to the 2010 rule to allow more use of RICE generators -- used for industry, medical facilities, oil and gas companies, and power generation -- to keep power going and avoid blackouts. Industry had complained that the earlier rules were too costly and did not allow enough flexibility ([E&ENews PM](#), Jan. 15).

But environmentalists balked at the revisions, saying that they would allow dirty diesel generators to operate without pollution controls.

EPA said the standards would cut particulate matter emissions by 2,800 tons per year and nitrogen oxide emissions by 9,600 tons a year.

John Shelk, president of the Electric Power Supply Association, said the filings were "encouraging" and should force EPA to review a rule it had considered too narrowly.

"On the surface, it might make sense, but you have to overlay this rule with how power markets are regulated by [the Federal Energy Regulatory Commission]," Shelk said. "That's where the problem is."

Two EPSA members -- Calpine Corp. and PSEG Power LLC -- joined FirstEnergy Solutions on its petition.

Delaware has long opposed the RICE rules and had threatened litigation in the past. At a July EPA meeting, Ali Mirzakhilili, the state's air quality director, said the rule as proposed "allows increased amounts of diesel generation and discourages construction of cleaner fossil and renewable resources" ([Greenwire](#), July 10, 2012).

The state didn't return calls for comment in time for publication.

The National Rural Electric Cooperative Association had backed the rule generally but took issue with the elimination of a provision that would allow generators to operate for up to 50 hours a year during high demand periods and other nonemergency situations through August 2017. Environmentalists and other opponents had said the "peak shaving" provision would have meant more pollution by running dirty generators on hot days.

NRECA declined to comment on its filing but pointed to a January statement saying its members were "disappointed" with the elimination of the peak shaving provision and that it could mean higher costs for utility customers.

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## THE LEADER IN ENERGY & ENVIRONMENTAL POLICY NEWS

### 3. KEYSTONE XL:

#### **Enviros prepare ads highlighting Ark. spill in anti-pipeline push**

Nick Juliano, E&E reporter

*Published: Wednesday, April 3, 2013*

Environmental groups are preparing to launch an advertising and grass-roots lobbying campaign highlighting a recent oil spill in Arkansas to argue that the Obama administration should reject the Keystone XL pipeline, a former administration adviser working on the effort said today.

The rupture last week of an Exxon Mobil Corp. pipeline in Mayflower, Ark., spilled thousands of barrels of heavy crude extracted from Canadian oil sands, covering neighborhoods and harming wildlife. Environmental groups are highlighting the spill to augment their case against Keystone, which would carry similar oil that opponents say is more harmful to the climate and makes pipelines more prone to leak.

The campaign will continue over the next few weeks with television and digital ads as well as efforts to mobilize environmentalists against Keystone, said Bill Burton, a senior adviser to the League of Conservation Voters who previously worked in the White House and on President Obama's 2008 campaign.

"You can bet that this fight has been joined," and LCV and its allies will continue to highlight the Arkansas spill's consequences, Burton said on a conference call this morning. He would not provide specifics on the next steps but said announcements would be coming in the next few days.

The fight over Keystone has emerged as one of the highest-profile showdowns of Obama's second term, with environmentalists and industry alike looking to the decision over the pipeline as an indication of how the president will address a variety of energy, environmental and climate policy issues over the next four years.

Burton acknowledged that "the politics of this are not perfectly on our side," with recent opinion polls showing bipartisan support for Keystone and a nonbinding vote last month putting 62 senators on record in favor of the Alberta-to-Texas line. But he said he was optimistic that Obama considered more than just public opinion and rejected the pipeline over its contributions to climate change and the risk of more oil spills.

Tiernan Sittenfeld, LCV's senior vice president of government affairs, accused the oil industry of lying about the risk of transporting oil sands crude via pipelines, pointing to a series of leaks at the Keystone 1 pipeline, which like the proposed Keystone XL is operated by TransCanada Corp. She said the Arkansas spill and its attendant images of oil-slicked front yards further demonstrate those risks.

"We view this as a really big deal both in terms of what is unfolding as we speak in Arkansas, but also for the potential of what could happen in an even bigger and more devastating way" if Keystone XL is approved, she said.

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## 17. WATER POLLUTION:

### **No EPA permit needed for contaminants seeping from utility poles -- appeals court**

Jeremy P. Jacobs, E&E reporter

Published: Thursday, April 4, 2013

Federal judges ruled yesterday that wood preservatives seeping from utility poles into the San Francisco Bay don't require U.S. EPA permits and don't qualify as solid waste.

The Ecological Rights Foundation had claimed that the preservatives contain potentially toxic chemicals that leach into the bay when it rains. It argued that Pacific Gas & Electric needed to obtain federal permits for its poles.

In an opinion that drew heavily on a recent Supreme Court ruling, judges on the 9th U.S. Circuit Court of Appeals disagreed. The panel held that the utility wasn't violating the Clean Water Act because stormwater runoff doesn't qualify as a point source associated with industrial activity -- requirements for National Pollutant Discharge Elimination System (NPDES) permits.

Judge Consuelo Maria Callahan wrote that it is up to EPA -- not PG&E -- to determine what qualifies as a point source and, thus, needs an NPDES permit.

"We have repeatedly explained that this language gives EPA the discretion to decide which additional stormwater discharges to regulate," Callahan wrote. "... Because EPA has chosen not to regulate stormwater runoff from the defendants' utility poles, that runoff is in compliance with the [Clean Water Act], even if it is discharged without an NPDES permit."

The three-judge panel also held that PG&E wasn't violating the Resource Conservation and Recovery Act, or RCRA, because the preservative runoff doesn't qualify as "solid waste."

Efforts from the Ecological Rights Foundation date back to 2009, when it threatened to sue PG&E and Pacific Bell Telephone Co. over their utility poles in Alameda, Contra Costa and San Francisco counties. It charged that the preservatives on the poles contain pentachlorophenol, or PCP, as well as biocides and other chemicals that are potentially harmful to water ecosystems. The runoff, the group charged, also contains hazardous dioxins.

A district court initially dismissed the lawsuit, a decision that the San Francisco-based 9th Circuit upheld.

Callahan noted, however, that stormwater runoff presents a "unique problem" under the Clean Water Act because it falls between the "point source" -- such as industrial discharge pipes -- and "nonpoint source" definitions. The judge drew heavily from the Supreme Court's recent ruling that channeled runoff from forests and logging roads doesn't require NPDES permits. In that case, *Decker v. Northwest Environmental Defense Center*, the justices ruled 7-1 that EPA's interpretation of the Clean Water Act was reasonable ([Greenwire](#), March 20).

Judge Andrew Hurwitz largely concurred with Callahan's opinion; however, he noted that under different circumstances utility poles could be point sources. He agreed, though, that the pole runoff did not qualify as industrial activity under the Clean Water Act.

On the RCRA charges, Callahan deferred to EPA.



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**27. EPA:**

**Sequestration plan includes extra-long Memorial Day holiday**

Emily Yehle, E&E reporter

Published: Thursday, April 4, 2013

U.S. EPA will close its doors for the Memorial Day holiday on May 24, forcing employees to take a four-day weekend that includes a day of unpaid leave in a sequestration cost-cutting move.

The agency is also requiring employees to take three additional days off between April 21 and June 15, for a total of 32 hours of unpaid leave. Employees will get their "furlough decision memos" beginning this week.

The news is the latest to trickle out of the agency as it prepares to cut more than \$425 million from its budget to adhere to the governmentwide cuts known as sequestration. EPA has told employees to expect up to 13 furlough days this fiscal year, though officials will reassess that number in June after trying to recoup money elsewhere ([Greenwire](#), March 28).

If Congress does not stop the sequester, or if the agency doesn't find other areas to cut, EPA plans agencywide furlough days on July 5 and Aug. 30 to make four-day weekends out of Independence Day and Labor Day. Employees may also have to take seven additional furlough days before the end of the fiscal year on Sept. 30.

In a [memo](#) to employees yesterday, Assistant Administrator Craig Hooks wrote that officials "are doing everything possible to both minimize the impact of the administrative furlough and to keep you informed throughout this difficult time."

He also announced new guidance on the furlough process and "what will be expected" of employees. An EPA spokeswoman did not respond immediately to a request for that document.

According to Hooks' memo, EPA won't require part-time employees to take the full 32 hours of unpaid leave; instead, they will be furloughed "proportional to their work schedules."

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## THE POLITICS AND BUSINESS OF UNCONVENTIONAL ENERGY

### 9. WATER:

#### Range Resources countersuit over water spat could go back to trial court

*Published: Thursday, April 4, 2013*

A Texas appeals court recommended a rehearing for a Range Resources Corp. countersuit against landowners who accused the company of contaminating their water.

Landowners Steven and Shyla Lipsky of Weatherford, Texas, sued Fort Worth-based Range in 2011 after U.S. EPA determined that the gas company had sullied the family's water with methane and carcinogenic benzene.

But EPA took back the administrative order 15 months later, and Range filed its own lawsuit against the Lipskys and a consultant, Alisa Rich, alleging they conspired to malign the company's environmental image by involving the federal agency. Range said methane was found in the area's water before the company started fracking there ([EnergyWire](#), Feb. 20).

The Lipsky family argued that Range's countersuit violated a Texas law prohibiting litigation designed to thwart public protest. But Judge Trey Loftin of Weatherford upheld Range's case in February 2012 and the ruling went to an appeals court in Fort Worth.

The appeals court said Tuesday that the parties should go back to the original trial court, now that a new judge has taken over Loftin's position following the general election last fall.

"The court must abate the proceeding to allow the successor to reconsider the original party's decision," the 2nd Court of Appeals in Fort Worth said in a letter explaining its decision.

However, the court added that the appeal would go forward if both sides agreed to allow it by April 11.

Brent Rosenthal, a lawyer for the Lipskys, said he hadn't decided whether to pass up the chance to be reconsidered by the trial court, now presided over by Judge Craig Towson since January.

"There are all sorts of angles in this," he said. "Each side has veto power on that decision."

Matt Pitzarella, a spokesman for Range, said in an email that the company had not yet decided how to proceed, although he was optimistic the case would not be thrown out.

"We're confident that regardless of who considers the issue, the ruling by Judge Loftin is correct and Range's claims, based on the false allegations against it, should proceed to a trial," he wrote.

Range is seeking \$3 million in damages from Rich and the Lipskys ([Bloomberg/Fuel Fix](#), April 3). -- BS

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